

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

LESLIE DOUGLASS §
§
V. § CASE NO. _____
§ (Jury)
§
STATE FARM MUTUAL AUTOMOBILE §
INSURANCE COMPANY §

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1441(b) (DIVERSITY)

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant State Farm Mutual Automobile Insurance Company, hereinafter referred to as "State Farm", hereby removes to this Court, the state court action described below.

1. The above entitled action was originally filed and is pending in the 2nd Judicial District Court of Cherokee County, Texas under Cause No. 2017-05-0250. Citation naming State Farm Mutual Automobile Insurance Company as Defendant was served, together with Plaintiff's Original Petition, Requests for Disclosures, and Declaratory Judgment Action to Defendant on or about May 5, 2017. No other proceedings have occurred in the 2nd Judicial District Court of Cherokee County, Texas.
2. This is a civil action in which Plaintiff seeks judgment against Defendant regarding an insurance policy and contractual relationship.
3. At the commencement of this action in the 2nd Judicial District Court of Cherokee County, Texas, and at all times thereafter, Plaintiff Leslie Douglass was and is a resident of Cherokee County, Texas. The only properly joined Defendant, Defendant State Farm was and is a mutual insurance company residing in the State of Illinois, with its principal place of business in the State of Illinois. The amount in controversy plead by Plaintiff exceeds the federal court diversity jurisdictional

amount of \$75,000.¹

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332, and this action may be removed under the provisions of 28 U.S.C. §1441(b).

5. Pursuant to 28 U.S.C. § 1441(b), an action shall be removable “if none of the parties in interest properly joined and served as defendants is a citizen of the state in which such action is brought.”²

6. Suit was commenced on May 4, 2017. Plaintiff alleges causes of action based entirely on the contractual relationship created by State Farm Mutual Automobile Policy Number C132-636-53Q, the contract of insurance between insurer and insured.³ This policy was originally issued by Defendant State Farm on April 15, 2016 to Plaintiff Leslie Douglass. Plaintiff was in a motor vehicle collision on June 4, 2016. Plaintiff alleges that the driver of the other vehicle was negligent and therefore responsible for Plaintiff’s alleged damages. Further, Plaintiff alleges that the other driver, Daniel Bruce Garrett was uninsured. As a result, Plaintiff made a claim for uninsured motorist benefits under the policy issued by State Farm. Plaintiff alleges that Defendant breached the contract for insurance.⁴ Plaintiff also seeks relief under the Uniform Declaratory Judgment Act.⁵ Thus, because Defendant State Farm is a mutual insurance company, with its principal place of business in the State of Illinois, and Plaintiff was and is a resident of Cherokee County, Texas, this action is removable under 28 U.S.C. § 1441(b). This Court has original jurisdiction over this action pursuant

¹ See Plaintiff’s Original Petition, Exhibit A.

² 28 U.S.C. § 1441(b).

³ See Plaintiff’s Original Petition, Exhibit A.

⁴ *Id.*

⁵ *Id.*

to 28 U.S.C. §1332.⁶

7. A true and correct copy of all process, pleadings and orders, being Plaintiff's Original Petition and citations served on Petitioner in this action are attached hereto as Exhibit "A" and incorporated herein the same as if set forth at length.

8. Thirty (30) days have not yet expired since this action became removable to this Court by service of summons or receipt of pleadings creating a right of removal. Defendant was served with the summons and complaint on May 5, 2017 and this notice of removal is filed before the applicable deadline.

WHEREFORE, PREMISES CONSIDERED, Petitioner State Farm Mutual Automobile Insurance Company prays that the above entitled action be removed from the District Court of Cherokee County, Texas to the United States District Court for the Eastern District of Texas, Tyler Division.

Respectfully submitted,

BY: /s/ Paul M. Boyd
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ATTORNEY FOR DEFENDANT

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28 U.S.C. § 1441(b); 28 U.S.C. §1332.

STATE OF TEXAS

§

COUNTY OF SMITH

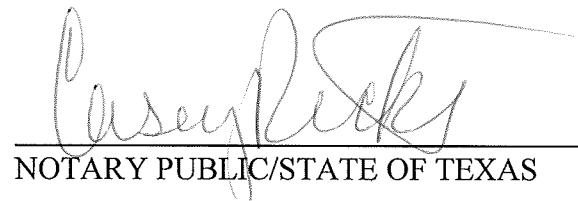
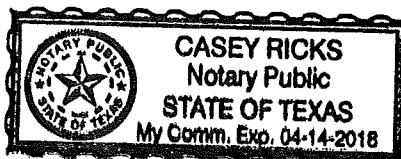
§

BEFORE ME, the undersigned authority, on this day personally appeared PAUL M. BOYD, who by me being duly sworn, on oath states that he is the attorney for Petitioner State Farm Mutual Automobile Insurance Company, that he has the authority to make this verification; that he has read the foregoing Notice of Removal of Action Under 28 U.S.C. §1441(b) (Diversity) and knows the contents thereof; that the same is true of his own knowledge.



PAUL M. BOYD

SUBSCRIBED AND SWORN TO before me the undersigned notary public by the said PAUL M. BOYD, on this the 25th day of May, 2017, to certify which witness my hand and official seal of office.



NOTARY PUBLIC/STATE OF TEXAS

CERTIFICATE OF SERVICE

I hereby certify that on this the 26 day of May, 2017, a true and correct copy of the above and foregoing instrument was forwarded via electronic means, facsimile and/or U.S. Mail, certified return receipt requested to:

Mr. R. W. (Ricky) Richards
Ms. Jill C. Penn
RICHARDS & PENN, L.L.P.
P. O. Drawer 1309
516 E. Commerce Str.
Jacksonville, TX 75766
[ATTORNEYS FOR PLAINTIFF]

/s/ Paul M. Boyd
PAUL M. BOYD